to a neutral of a war vessel of a belligerent, and, therefore, as I have endeavored to show, illegal. Surely, if the owners of this vessel could convey to Stead no valid title to her, it will hardly be pretended that the captain, acting as he always does in such cases as agent for the owners, could do so. If then the sale of this vessel to Stead conveyed no title to him, he of course could transmit no title to the claimants.

Whether the claimants, Renouard and Bode, acted in good faith in the purchase of this vessel, it is unnecessary to inquire. That they are respectable merchants of Nassau, that they paid a valuable consideration for her, and that they had no intention of employing her for any illegal purposes, are cheerfully admitted. This is more, however, than can be said with regard to Stead. There is too much reason to believe that his object in purchasing the vessel was to employ her in running the blockade. But whether this be so or not, it is a matter of no importance, in the view which I have taken of this case. He had no right to purchase her for any purpose. And as to Renouard and Bode, they *must* have known that this had been a war vessel in the service of the Confederate States, and they *ought* to have known that for this reason, she was not a legitimate object of commercial speculation

The claim is rejected.

ABSTRACTS OF RECENT AMERICAN DECISIONS.

SUPREME COURT OF THE UNITED STATES.[1]

Action—Right to commence.—Where an award, made under submission by parties plaintiff and defendant to that effect, awards that one party shall pay to the other a certain sum on one day specified, another sum on another day specified, and that to secure the payments he shall give a bond in a penal sum, and the party against whom the award is made refuses to do any of the things awarded, an action of debt will lie against him even although the time when both sums of money were awarded to be paid has not yet arrived. The right of action is perfect on the party's refusal to give the bond: *Bayne* vs. *Morris.*

Agency.—Authority without restriction to an agent to sell, carries with it authority to warrant: *Schuchardt* vs. *Allens.*

Arbitrators.—The power of arbitrators is exhausted when they have once finally determined matters before them. Any second award is void: *Bayne* vs. *Morris.*

[1] From J. W. Wallace, Esq., Reporter; to appear in Vol. I. of his Reports.

Case Stated.—The Supreme Court cannot give judgment as on a case stated, except where facts, and facts only, are stated. If there be question as to the competency or effect of evidence, or any rulings of the court below upon evidence to be examined, the case is not a "case stated:" *Burr* vs. *The Des Moines Co.; Pomeroy's Lessee* vs. *Bank of Indiana.*

Evidence—Courts.—The rules of evidence prescribed by the laws of a state being rules of decision for the Federal courts while sitting within the limits of such state, they must be obeyed even though they violate the ancient laws of evidence so far as to make *the parties to the action* witnesses in their own cause; herein adopting a practice in opposition to a specific rule by the Federal court for the circuit: *Ryan* vs. *Bindley.*

Contract of Sale.—Where a sale has been so far completed that the vendee has bought and received the goods, the vendor cannot hold him to terms not agreed on, by sending him a bill or memorandum of sale, with such terms set out upon it as that "no claims for deficiencies or imperfections will be allowed, unless made within seven days from the receipt of goods:" *Schuchardt* vs. *Allens.*

Court and Jury.—Whenever the evidence is not legally sufficient to warrant a recovery, it is the duty of the court to instruct the jury accordingly. But if there be evidence from which the jury may draw an inference in the matter, the case ought not to be taken from them. It is not necessary, in order for the court properly to leave the case with the jury, that the evidence leads unavoidably to the conclusion that the plaintiff has no case. If there be evidence proper to be left to the jury, it should be left; and a remedy for a wrong verdict sought in a motion for a new trial: *Id.*

Estoppel in Pais.—Where Congress gives lands to a state for railroad purposes and for "no other," and the state granting the great bulk of them to such purposes allows settlements by pre-emption, where improvement and occupancy have been made on the lands prior to the date of the grant by Congress, and since continued; a purchaser from the railroad company of a part which the state had thus opened to pre-emption cannot object to the act of the state in having thus appropriated the part; the railroad company having, by formal acceptance of the bulk of the land under the same act which opened a fractional part to pre-emption, itself waived the right to do so. The United States as donor not objecting, nobody can object: *Baker* vs. *Gee.*

Bridge.—A railway viaduct, if nothing but a structure made so as to lay iron rails thereon, upon which engines and cars may be moved and propelled by steam, not to be connected with the shore on either side of a river, except by a piece of timber under each rail, and in such a manner, as near as may be, so as to make it impossible for man or beast to cross said river upon said structure, except in railway cars (the only roadway between said shore and said structure being two or more iron rails, two and a quarter inches wide, four and a half inches high, laid and fastened upon said timber four feet ten inches asunder), is not a "bridge" within the meaning of the Act of New Jersey, passed A. D.

1790, by which the state enacted that no persons but certain persons named should erect any "bridge" over certain rivers for a term of ninety-nine years: *Bridge Proprietors* vs. *Hoboken Co.*

Jurisdiction of the Supreme Court of the United States.—Error will lie from the Supreme Court of the United States to the highest court of law or equity of a state, under the 25th section of the Judiciary Act:

1. Where a statute of the United States is technically in issue in the pleadings, or is relied on in them, and is decided against by rulings asked for and refused, even though the case may have been disposed of generally by the court on other grounds: *State of Minnesota* vs. *Bachelder.*

2. Where a statute of a state creates a contract, and a subsequent statute is alleged to impair the obligation of that contract, and the highest court of law or equity in the state *construes* the *first* statute in such a manner as that the second statute does *not* impair it, whereby the second statute remains valid under the Constitution of the United States: *Bridge Proprietors* vs. *Hoboken Co.*

An appellant, under the 25th section of the Judiciary Act, from the highest court of law or equity of a state to the Supreme Court of the United States, under the provision that "where is drawn in question the construction of *any clause of the Constitution*, or of a *statute* of the United States, and the decision is *against* the title," right, &c., so set up, need not set forth specially the clause of the Constitution of the United States on which he relies. If the pleadings make a case which necessarily comes within the provisions of the Constitution, it is enough: *Id.*

The Supreme Court of the United States has no power to review by *certiorari* the proceedings of a military commission ordered by a general officer of the United States Army commanding a military department: *Ex parte Vallandigham.*

SUPREME COURT OF VERMONT.[1]

Record—Deed—Notice—Attachment.—The record of a deed in one town conveying land in such town, is not of itself constructive notice of the conveyance by the same deed of land, lying in another town: *Perrin* vs. *Reeds.*

But if one sees such record and reads it, and has such knowledge of the premises as to know from the description that the land in the other town was conveyed by the deed so recorded, this constitutes notice of the conveyance of the land in such other town: *Id.*

An attaching creditor of real estate with notice, either actual or constructive, of the true state of the debtor's title, is bound by such notice, and stands in no better position than a purchaser with the same notice: *Id.*

Statute of Limitations—Acknowledgment.—A debtor was summoned as the trustee of his creditor. He denied any liability to the creditor,

[1] From Wm. G. Shaw, Esq., Reporter; to appear in 35th Vermont Reports.

and intended to appear and defend the trustee action, but, forgetting the day of trial, was adjudged trustee by default. *Held*, that neither the rendition of this judgment nor the payment of it by the debtor, was such an acknowledgment of the creditor's claim, as would prevent the operation of the Statute of Limitations: *Goodwin* vs. *Buzzell.*

Statements by a debtor, who in the same conversation denies the justness of an account, that, *if the other party would swear to it, he would pay it*, and that *he did not think the account just, but if it was just he would pay it*, are not such acknowledgments of the debt as will take it out of the Statute of Limitations: *Id.*

Fraudulent Agreement—Payment.—The payment by a debtor to a creditor of his debt, before it is due, in order to aid the creditor in his purpose of preventing *his* creditors from attaching the debt by means of the trustee process, is not void as within the statute against fraudulent conveyances, agreements, &c.; chap. 104, § 23, Comp. State; Gen. Stat. Chap. 113, Sec. 32: *Fletcher* vs. *Pillsbury and Trustee.*

Separate Property of Married Woman.—An agreement made during coverture between husband and wife, that certain personal property or funds belonging to him shall become her separate property, will be enforced in equity, if it is so far carried into effect as to separate the property or fund from the residue of the husband's estate, and place it in the name and exclusive control of the wife: *Cardell* vs. *Ryder et al.*

Way.—A right of way cannot arise from mere necessity, independent of any grant or reservation express or implied, as in the case of a former unity of ownership: *Tracy* vs. *Atherton et al.*

Attachment—Action—Officer.—The general owner of property attached by his creditors may maintain a suit against the attaching officer for damage to the property attached through the officer's negligence, while the suit upon which the property is attached is still pending, and the attachment is still in force: *Briggs* vs. *Taylor.*

The rights of the creditor and officer in such cases may be protected by an order of court for the stay of execution, or the payment of the damages into court to await the determination of the original suit in which the attachment was made: *Id.*

Qui Tam Actions for Fraudulent Conveyances and Judgments.—In a *qui tam* action against the creditor in a fraudulent judgment, or the grantee in a fraudulent conveyance, for the statutory penalty, it is necessary that the intent of *both* parties to the transaction should be ultimately to defraud creditors. A design to hinder or delay them merely for a time is not within the statute: *Barnum q. t.* vs. *Hackett.*

But if either party to such mutually fraudulent conveyance or judgment consists of more than one person, those who participate in the fraudulent intent are not relieved from liability under the statute, by the fact that all of such persons are not guilty of a criminal design: *Id.*